

**DRAFT.FOR DISCUSSION PURPOSES ONLY**

Local Bankruptcy Rules  
Middle District of Alabama

LBR 1001–1 Scope of Rules

The rules govern procedure in all cases and proceedings filed in the United States Bankruptcy Court for the Middle District of Alabama.

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Rule 1002–1 Commencement of Case

{a} A case may be commenced in this Court upon the filing of the following:

{1} A petition;

{2} Payment of the required filing fee, or the filing of an application for payment of the filing fee in installments in accordance with LBR 1006–1;

{3} A list of all creditors, unless a schedule of liabilities is filed;

{4} A mailing matrix.

{b} The Clerk will not accept a petition for filing or issue a case number unless the filing includes all items required in paragraph {a} above.

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Rule 1006–1 Payment of Filing Fees in Installments

(a) An application for payment of a filing fee in installments shall be accompanied by a payment of not less than 20% of the total filing fee due and provide for not more than four equal monthly payments, with the first payment due not more than 30 days after the date of filing and the remainder of the payments due on the same date of each of the three succeeding months.

(b) The Clerk of the Court may serve notice of default of any installment due under this rule which is not paid when due. Notice shall be served upon each debtor, debtors' counsel, the trustee and the bankruptcy administrator. The Court may dismiss any case, without further notice of hearing, after 20 days after service of notice of default unless the default is cured or the debtor files a response showing good cause why the case should not be dismissed.

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Local Rule 10007–1

The Clerk may give notice of a debtor's failure to timely file any schedule or statement required under any applicable rule within the time limits allowed by the rules or extended by order of the Court. Notice shall be served upon each debtor, debtors' counsel, the trustee and the bankruptcy administrator. Any case may be dismissed after twenty days after service of such a notice, without further notice or hearing, unless, within that time, the debtor files the required schedule or statement or shows cause in a writing filed with the Court why the case should not be dismissed.

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Local Rule 1009–1 Amendment of Petition, Lists, Schedules and Statements

(a) Any petition, list, schedule or statement amended as permitted by the rules shall meet the following requirements:

(1) All amended schedules or statements shall use the applicable Official Form and, unless otherwise permitted by this rule, supplant all prior filings. Any statement, schedule or list which is over 15 pages long, which is to be amended by adding additional creditors or information, may be supplemented with an amended filing which supplements, rather than supplants, the prior filing so long as all prior filings are clearly identified by title and date of service or filing.

(2) Any information added or changed on an amended filing shall prominently indicate the change, either by underscoring or boldening the changed information, or by filing a separate pleading giving notice of the changed information.

(3) All amended filings shall be served upon any party affected by the change and proof of such service shall be filed with the amended filing.

(b) Leave of court need not be sought to amend any list, schedule or statement.

(c) An amendment of a petition to add or delete a debtor may only be done with leave of court upon a motion served upon all parties in interest.

(d) Any amendment which adds additional creditors or parties in interest shall be accompanied by an amended mailing matrix and additional fees, if applicable.

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LBR 1017-1

(a). The Chapter 13 Trustee may file, with service upon each Debtor and counsel for the Debtor, if any, a Notice of Default, setting forth a default in payment or performance under any case pending under Chapter 13. Any such notice shall contain the following notice: .THIS CASE MAY BE DISMISSED BY THE COURT, WITHOUT FURTHER NOTICE OR HEARING, UNLESS THE DEBTOR SHOWS CAUSE, IN WRITING FILED WITH THE CLERK AND SERVICE MADE UPON THE CHAPTER 13 TRUSTEE, WITHIN 20 DAYS OF THE DATE OF THIS NOTICE, WHY THIS CASE SHOULD NOT BE DISMISSED..

(b) The Debtor may file a response within 20 days of the date of service or such additional time as the Court may allow. Any such response shall set forth, with specificity, any and all grounds upon which the dismissal is opposed.

(c) After 20 days after service of a notice in accordance with sub-paragraph (a) above, the Court may dismiss, without further notice or hearing, any case in which a written response has not been filed by or on behalf of the Debtor, or any case in which the written response does not raise a genuine issue or sufficient grounds for a hearing on the merits.

(d) The Court may schedule a hearing in any case in which a Notice of Dismissal has been served by the Chapter 13 Trustee. In the event that the Debtor disputes the accuracy of the Chapter 13 Trustee's record of payment, the Debtor, or his counsel, shall make a good faith effort to resolve the matter in advance of the hearing. In the event the parties are unable to resolve the matter, the Debtor shall send the Trustee copies of any documents not less than 5 days prior to the hearing.

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LBR 2002–1 Negative Notice Procedure

(a) The following motions, objections, and other matters may be considered by the court without an actual hearing under the negative notice procedure described in this rule if no party in interest files a timely written objection stating a specific ground or grounds upon which the objection is based:

(1) Motions to employ (a) professional persons other than attorneys or (b) attorneys under section 327(e) of the Bankruptcy Code pursuant to Fed. R. Bankr. P. 2014.

(2) Motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d).

(3) Motions for extension of the time for the assumption or rejection of executory contracts or leases pursuant to section 365(d)(1) of the Bankruptcy Code.

(4) Motions to assume or reject executory contracts pursuant to Section 365 of the Bankruptcy Code.

(5) Motions to avoid liens on exempt property pursuant to Section 522(f) of the Bankruptcy Code and Fed. R. Bankr. P. 4003(d).

(6) Motions to use, sell, or lease property not in the ordinary course of business pursuant to Fed. R. Bankr. P. 6004(a) but not motions to sell property free and clear of liens or other interests pursuant to Fed. R. Bankr. P. 6004(c).

(7) Notices of abandonment pursuant to Fed. R. Bankr. P. 6007(a) and motions to compel

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abandonment pursuant to Fed. R. Bankr. P. 6007(b).

(8) Objections to claims pursuant to Fed. R. Bankr. P. 3007 other than objections joined with a demand for relief of the kind specified in Fed. R. Bankr. P. 7001.

(9) Motions to extend the time for filing claims pursuant to Fed. R. Bankr. P. 3002(c) or Fed. R. Bankr. P. 3003(c).

(10) Motions to extend the time for the filing of dischargeability complaints under Fed. R. Bankr. P. 4007.

(11) Motions to defer entry of discharge pursuant to Rule 4004(c)(2), Fed. R. Bankr. P.

(12) Motions to increase the exclusivity periods for filing a chapter 11 plan pursuant to section 1121(d) of the Bankruptcy Code.

(13) Motions to approve compromises or settlements pursuant to Fed. R. Bankr. P. 9019(a).

(14) Objections to exemptions pursuant to Fed. R. Bankr. P. 4003(b).

(15) Motions to modify Chapter 13 Plans after confirmation pursuant to Rule 3015(g), Fed. R. Bankr. P.

(16) Motions to dismiss or convert cases pursuant to sections 707(a), 1112, 1208 and 1307.

(17) Motions to reopen cases pursuant to Section 350 of the Bankruptcy Code.

(18) Motions to change the venue of a case from one division in this district to another.

(19) Motions to redeem personal property pursuant to Section 722.



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(20) Motions to abandon property pursuant to Section 554.

(21) Approval of trustees' final accountings and compensation.

(b) Motions, objections, and other matters filed pursuant to this negative notice procedure shall:

(1) Be filed with the clerk and served in the manner and on the parties as required by the provisions of the Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, or any order of court applicable to motions, objections, or matters of the type made and shall be filed with the proof of such service.

(2) Contain a negative notice legend prominently displayed on the face of the first page of the paper. The negative notice legend shall be in a form substantially similar to Local Form No. 1.

(3) Include a proposed order, copies of which shall be served upon all parties entitled to service of the motion or objection. The proposed order shall not provide for any relief not requested in the motion or objection, nor shall it purport to provide relief which may not, as a matter of law, be provided to a party filing such motion or objection.

(c) A party may file an objection within 20 days of service of any motion filed under the provisions of this rule, except:

(1) In the case of motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d), the time shall be 15 days;

(2) In the case of objections to proofs of claim pursuant to Fed. R. Bankr. P. 3007, the time

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shall be 30 days;

(d) In the event a party in interest files a written objection stating the specific ground or grounds on which the objection is based within the time permitted in the negative notice legend, the court may schedule a hearing on the motion, objection, or other matter upon notice to the movant's attorney, the objecting party or parties, and others as may be appropriate. Objections which fail to state facts sufficient to support an objection may be overruled without further notice or hearing. General denials and conclusory statements which are insufficient to raise a justiciable issue may be overruled without further notice or hearing.

(e) The Court may, by standing order, provide that the objecting party may schedule the date of the hearing.

(f) In the event no party in interest files a written objection stating the specific ground or grounds on which the objection is based within the time permitted in the negative notice legend as computed under Fed. R. Bankr. P. 9006(a) and (f), the court may rule upon the matter without further notice or hearing.

(f) Nothing in this rule is intended to preclude the court from conducting a hearing on the motion, objection, or other matter even if no objection is filed within the time permitted in the negative notice legend.

LOCAL RULE 2016–1

CONTENTS OF APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF  
EXPENSES

(a) All applications should include sufficient detail to demonstrate compliance with the standards set forth in 11 U.S.C. Section 330. The fee application should also contain sufficient information about the case and the applicant so that the Court, the creditors, and the Bankruptcy Administrator can review it without searching for relevant information in other documents. The following will facilitate review of the application.

(b) The following information should be provided in every fee application:

Information about the Applicant and the Application.

1. Date the bankruptcy petition was filed, date of the order approving employment, identity of the party represented, date services commenced, and whether the applicant is seeking compensation under a provision of the Bankruptcy Code other than section 330.

2. Terms and conditions of employment and compensation, source of compensation, existence and terms controlling use of a retainer, and any budgetary or other limitations on fees.

3. Names and hourly rates of all applicant's professionals and paraprofessionals who billed time, explanation of any changes in hourly rates from those previously charged, and statement of whether the compensation is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.

4. Whether the application is interim or final, and the dates of previous orders on interim compensation or reimbursement of expenses along with the amounts requested and the amounts allowed

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or disallowed, amounts of all previous payments, and amount of any allowed fees and expenses remaining unpaid.

5. Whether the person on whose behalf the applicant is employed has been given the opportunity to review the application and whether that person has approved the requested amount.

6. When an application is filed less than 120 days after the order for relief or after a prior application to the Court, date and terms of the order allowing leave to file at shortened intervals.

7. Time period of the services or expenses covered by the application.

Case Status. The following information should be provided to the extent that it is known to or can be reasonably ascertained by the applicant:

1. In a chapter 7 case, a summary of the administration of the case including all moneys received and disbursed in the case, when the case is expected to close, and, if applicant is seeking an interim award, whether it is feasible to make an interim distribution to creditors without prejudicing the rights of any creditor holding a claim of equal or higher priority.

2. In a chapter 11 case, whether a plan and disclosure statement have been filed and, if not yet filed, when the plan and disclosure statement are expected to be filed; whether all quarterly fees have been paid to the United States Trustee; and whether all monthly operating reports have been filed.

3. In every case, the amount of cash on hand or on deposit, the amount and nature of accrued unpaid administrative expenses, and the amount of unencumbered funds in the estate.

4. Any material changes in the status of the case that occur after the filing of the fee application should be raised, orally or in writing, at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

C. Summary Sheet. All applications should contain a summary or cover sheet that provides a synopsis of

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the following information:

1. total compensation and expenses requested and any amount(s) previously requested;
  2. total compensation and expenses previously awarded by the court;
  3. name and applicable billing rate for each person who billed time during the period, and date of bar admission for each attorney;
  4. total hours billed and total amount of billing for each person who billed time during billing period;
- and
5. computation of blended hourly rate for persons who billed time during period, excluding paralegal or other paraprofessional time.

**D. Project Billing Format**

1. To facilitate effective review of the application, all time and service entries should be arranged by project categories. The project categories set forth in Exhibit A should be used to the extent applicable. A separate project category should be used for administrative matters and, if payment is requested, for fee application preparation.
2. The United States Trustee has discretion to determine that the project billing format is not necessary in a particular case or in a particular class of cases. Applicants should be encouraged to consult with the United States Trustee if there is a question as to the need for project billing in any particular case.
3. Each project category should contain a narrative summary of the following information:
  - (i) a description of the project, its necessity and benefit to the estate, and the status of the project including all pending litigation for which compensation and reimbursement are requested;
  - (ii) identification of each person providing services on the project; and
  - (iii) a statement of the number of hours spent and the amount of compensation requested for each

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professional and paraprofessional on the project. 4. Time and service entries are to be reported in chronological order under the appropriate project category.

5. Time entries should be kept contemporaneously with the services rendered in time periods of tenths of an hour. Services should be noted in detail and not combined or "lumped" together, with each service showing a separate time entry; however, tasks performed in a project which total a de minimis amount of time can be combined or lumped together if they do not exceed .5 hours on a daily aggregate. Time entries for telephone calls, letters, and other communications should give sufficient detail to identify the parties to and the nature of the communication. Time entries for court hearings and conferences should identify the subject of the hearing or conference. If more than one professional from the applicant firm attends a hearing or conference, the applicant should explain the need for multiple attendees.

E. Reimbursement for Actual, Necessary Expenses. Any expense for which reimbursement is sought must be actual and necessary and supported by documentation as appropriate. Factors relevant to a determination that the expense is proper include the following:

1. Whether the expense is reasonable and economical. For example, first class and other luxurious travel mode or accommodations will normally be objectionable.
2. Whether the requested expenses are customarily charged to non— bankruptcy clients of the applicant.
3. Whether applicant has provided a detailed itemization of all expenses including the date incurred, description of expense (e.g., type of travel, type of fare, rate, destination), method of computation, and, where relevant, name of the person incurring the expense and purpose of the expense. Itemized expenses should be identified by their nature (e.g., long distance telephone, copy costs, messengers, computer research, airline travel, etc.) and by the month incurred. Unusual items require more detailed

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explanations and should be allocated, where practicable, to specific projects.

4. Whether applicant has prorated expenses where appropriate between the estate and other cases (e.g., travel expenses applicable to more than one case) and has adequately explained the basis for any such proration.

5. Whether expenses incurred by the applicant to third parties are limited to the actual amounts billed to, or paid by, the applicant on behalf of the estate. 6. Whether applicant can demonstrate that the amount requested for expenses incurred in-house reflect the actual cost of such expenses to the applicant. The United States Trustee may establish an objection ceiling for any in-house expenses that are routinely incurred and for which the actual cost cannot easily be determined by most professionals (e.g., photocopies, facsimile charges, and mileage).

7. Whether the expenses appear to be in the nature of nonreimbursable overhead. Overhead consists of all continuous administrative or general costs incident to the operation of the applicant's office and not particularly attributable to an individual client or case. Overhead includes word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurance, taxes, local telephone and monthly car phone charges, lighting, heating and cooling, and library and publication charges.

8. Whether applicant has adhered to allowable rates for expenses as fixed by local rule or order of the Court.

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LBR 2090-1 Admission and Discipline of Attorneys

Local Rule 83.1 of the United States District Court for the Middle District of Alabama is incorporated by reference and applies in all cases, proceedings and matters in this Court.



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LBR 5005–1 Electronic Filing

The Clerk is authorized to publish standards and rules for the acceptance of filings by electronic means.

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### **LBR 9011–1 Signatures of Electronically filed documents**

(a) The submission of a filing by electronic means shall be deemed to have been signed by the attorney under whose user name the filing was submitted. Attorneys may use a digitized signature, a scanned image of her signature, or simply denote a signature by way of the notation ./s/ Attorney Name.. Each attorney assigned a user name by the Clerk for purposes of making electronic filings shall take reasonable precautions to safeguard her user name and password to make sure that no unauthorized use is made. If an attorney learns that the security of her user name and password has been compromised, she shall immediately notify the Clerk of the Court.

(b) Signatures on electronic filings of individuals other than the assigned user shall be by way of digitized signature, a scanned image, or a denotation by way of ./s/ authorized signature.. The submission of a document which purports to be signed by an individual other than the individual assigned the user name under which the document is filed, constitutes a certificate by the user that the signature is genuine. Each user shall take reasonable precautions to ensure that documents are not filed without authorized signatures.

## **EXHIBIT A**

### **PROJECT CATEGORIES**

Here is a list of suggested project categories for use in most bankruptcy cases. Only one category should be used for a given activity. Professionals should make their best effort to be consistent in their use of

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categories, whether within a particular firm or by different firms working on the same case. It would be appropriate for all professionals to discuss the categories in advance and agree generally on how activities will be categorized. This list is not exclusive. The application may contain additional categories as the case requires. They are generally more applicable to attorneys in chapter 7 and chapter 11, but may be used by all professionals as appropriate.

ASSET ANALYSIS AND RECOVERY: Identification and review of potential assets including causes of action and non-litigation recoveries.

ASSET DISPOSITION: Sales, leases (§§ 365 matters), abandonment and related transaction work.

BUSINESS OPERATIONS: Issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues and other similar problems.

CASE ADMINISTRATION: Coordination and compliance activities, including preparation of statement of financial affairs; schedules; list of contracts; United States Trustee interim statements and operating reports; contacts with the United States Trustee; general creditor inquiries.

CLAIMS ADMINISTRATION AND OBJECTIONS: Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.

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EMPLOYEE BENEFITS/PENSIONS: Review issues such as severance, retention, 401K coverage and continuance of pension plan.

FEE/EMPLOYMENT APPLICATIONS: Preparations of employment and fee applications for self or others; motions to establish interim procedures.

FEE/EMPLOYMENT OBJECTIONS: Review of and objections to the employment and fee applications of others.

FINANCING: Matters under §§§§ 361, 363 and 364 including cash collateral and secured claims; loan document analysis.

LITIGATION: There should be a separate category established for each matter (e.g. XYZ Litigation).

MEETINGS OF CREDITORS: Preparing for and attending the conference of creditors, the §§ 341(a) meeting and other creditors' committee meetings.

PLAN AND DISCLOSURE STATEMENT: Formulation, presentation and confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

RELIEF FROM STAY PROCEEDINGS: Matters relating to termination or continuation of automatic stay under §§ 362.

The following categories are generally more applicable to accountants and financial advisors, but may be used by all professionals as appropriate.

ACCOUNTING/AUDITING: Activities related to maintaining and auditing books of account, preparation of

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financial statements and account analysis.

BUSINESS ANALYSIS: Preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies.

CORPORATE FINANCE: Review financial aspects of potential mergers, acquisitions and disposition of company or subsidiaries.

DATA ANALYSIS: Management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.

LITIGATION CONSULTING: Providing consulting and expert witness services relating to various bankruptcy matters such as insolvency, feasibility, avoiding actions; forensic accounting, etc.

RECONSTRUCTION ACCOUNTING: Reconstructing books and records from past transactions and bringing accounting current.

TAX ISSUES: Analysis of tax issues and preparation of state and federal tax returns.

VALUATION: Appraise or review appraisals of assets.

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LOCAL FORM NO. 1

NOTICE OF MOTION

Pursuant to Local Bankruptcy Rule 2002-1, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files a written objection within [number] days from the date of service of this paper. If you object to the relief requested in this paper, you must file your written objection stating the specific ground or grounds on which your objection is based with the Clerk of the Court at P.O. Box 1248, Montgomery, Alabama 36102, and serve a copy on the movant's attorney, [name and address, and any other appropriate persons].

If you file and serve a written objection stating the specific ground or grounds on which your objection is based within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file a proper written objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.